

# PLANNING COMMISSION MEETING

## A G E N D A

TOWN OF CHINCOTEAGUE

October 24, 2006 - 7:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

AGENDA ADOPTION:

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1. Public Comments
  2. Minutes of September 26, 2006
  3. Public Hearing; Special Use/ Conditional Use (Cancel Public Hearing)
  4. Public Hearing; Corner Lots
  5. Review of Sunset Bay Revised Site Plan
  6. Main Use Definition
  7. Review of Redman/Johnson recommendations
  8. Review of By-Laws

ADJOURN:

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**PLANNING COMMISSION MEETING  
26 SEPTEMBER 2006  
MINUTES**

CALL TO ORDER – Chairman Rosenberger called the meeting to order at 7:00 pm.  
INVOCATION AND PLEDGE OF ALLEGIANCE – Chairman Rosenberger led the invocation followed by the Pledge of Allegiance.

Members Present:

Mr. Ray Rosenberger, Chairman  
Mrs. Ellen Richardson  
Mrs. Jane Wolffe  
Mr. Tom Derrickson  
Mr. Ray Daisey  
Mr. Bob Behr  
Mrs. Mollie Cherrix

Mr. Kenny Lewis, Staff Support  
Mr. Robert G. Ritter Jr., Town Manager

AGENDA ADOPTION

Mrs. Richardson motioned, seconded by Mr. Behr, to adopt the agenda. The motion was unanimously approved.

PUBLIC COMMENTS

Mr. Richard Conklin expressed his concern over an issue he had with putting a roof over his boat lift. He asked that the Commission consider including these types of roofs when discussing amendments to Sec. 2.96.

1. MINUTES OF AUGUST 8, 2006

Mrs. Richardson made a motion, seconded by Mrs. Wolffe, to approve the minutes. The motion was unanimously approved.

2. PROPOSED FENCE ORDINANCE CHANGES; PUBLIC HEARING

Mrs. Richardson motioned, seconded by Mr. Derrickson, to approve the changes as written and send to Council.

**Add new Sections to R-3 District; 3.7.16 (4), Commercial C-1 District; 4.1.27 (4) and Commercial District C-2; 4.4.39 (4)**

*Construction containment fences are permitted provided that such fence does not exceed 6' in height and remain 30% open when viewed perpendicular to the fence line. Such*

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*fence shall not be placed closer than 15' from the front lot line or interfere with the visibility site triangle if adjoining a public or private right-of-way.*

*Such containment fence must be removed upon the issuance of the certificate of occupancy or determined by the Zoning Administrator if more than four units.*

### 3. REVIEW OF SUNSET BAY SITE PLAN AMENDMENT

Mr. Steve Fuller, engineer for Fuller Hall & Associates, addressed the Commission on the plan to construct sixty four marina slips on Sunset Bay South. He advised that Mr. Obrecht has purchased additional land to accommodate these slips.

Mr. Obrecht, part owner of the Sunset Bay project, stated that all the necessary permits from VMRC and the Corp of Engineers are in hand. The bulk heading is also in place. He stated they feel all the guidelines have been met and hope the town will grant them the right to proceed.

Mrs. Cherrix motioned, seconded by Mr. Daisey, to postpone further discussion until the next meeting to review parking lot standards and fire hydrants.

### 4. CORNER LOTS; SIDE YARD SETBACK

**Sections 3.6.5, 3.9.5, 4.3.5, and 4.6.5 – Corner Lots, item (2) rewording as:**

*The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures.*

Mr. Derrickson motioned, seconded by Mrs. Richardson, to accept as written and send it to public hearing at the October meeting. The motion was unanimously approved.

Mrs. Wolffe motioned, seconded by Mr. Behr, to amend Mr. Derrickson's motion to include a 25 foot setback on waterfront property.

Ayes – Rosenberger, Behr, Wolffe, Daisey

Nays – Richardson, Cherrix, Derrickson

The motion carried.

### 5. AMENDMENT TO 2.96; MAIN USE DEFINITION

*A dock, including a boat lift(s), used in conjunction with the main use of a lot or structure, which is in compliance with all applicable County, State, and Federal regulatory and statutory provisions and permitted by all required agencies, is a secondary, incidental or accessory use or structure.*

*A gazebo-type structure erected on a lot, the specific location of which is not subject to the jurisdiction of the Accomack County Wetlands Board, the Virginia Marine*

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*Resource Commission, and/or the United States Army Corps of Engineers, and used in conjunction with the main use of a lot or permitted building is a secondary, incidental or accessory use or structure.*

Mrs. Wolffe motioned, seconded by Mrs. Cherrix, to postpone until the next meeting. The motion was unanimously approved.

## **6. CONDITIONAL USE**

### **Section 3.2**

Such other temporary or permanent use of land, buildings, or structures as may be permitted *by right or expressly enumerated special exception in any other (residential) district*, subject to the other applicable requirements of the Ordinance, pursuant to a special use permit by the Board of Zoning Appeals in accordance with Article VIII, Section 8.2.6 of this Ordinance.

*Any temporary or permanent use of land, buildings, structures not permitted by right or by special exception by the Board of Zoning Appeals within the District shall only be permitted pursuant to a conditional use permit issued by the Town Council.*

### **Section 3.5.2**

Such other temporary or permanent use of land, buildings, or structures as may be permitted *by right or expressly enumerated special exception in any other (residential) district*, subject to the other applicable requirements of the Ordinance, pursuant to a special use permit by the Board of Zoning Appeals in accordance with Article VIII, Section 8.2.6 of this Ordinance.

*Any temporary or permanent use of land, buildings, structures not permitted by right or by special exception by the Board of Zoning Appeals within the District shall only be permitted pursuant to a conditional use permit issued by the Town Council.*

### **Section 3.8.10**

Such other temporary or permanent use of land, buildings, or structures as may be permitted *by right or expressly enumerated special exception in any other (residential) district*, subject to the other applicable requirements of the Ordinance, pursuant to a special use permit by the Board of Zoning Appeals in accordance with Article VIII, Section 8.2.6 of this Ordinance.

*Any temporary or permanent use of land, buildings, structures not permitted by right or by special exception by the Board of Zoning Appeals within the District shall only be permitted pursuant to a conditional use permit issued by the Town Council.*

### **Section 3.11.5**

Such other temporary or permanent use of land, buildings, or structures as may be permitted *by right or expressly enumerated special exception in any other district*, subject to the other applicable requirements of the Ordinance, pursuant to a special use permit by

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the Board of Zoning Appeals in accordance with Article VIII, Section 8.2.6 of this Ordinance.

*Any temporary or permanent use of land, buildings, structures not permitted by right or by special exception by the Board of Zoning Appeals within the District shall only be permitted pursuant to a conditional use permit issued by the Town Council.*

#### **Section 4.2.3**

Such other temporary or permanent use of land, buildings, or structures as may be permitted *by right or expressly enumerated special exception in any other (commercial) district*, subject to the other applicable requirements of the Ordinance, pursuant to a special use permit by the Board of Zoning Appeals in accordance with Article VIII, Section 8.2.6 of this Ordinance.

*Any temporary or permanent use of land, buildings, structures not permitted by right or by special exception by the Board of Zoning Appeals within the District shall only be permitted pursuant to a conditional use permit issued by the Town Council.*

#### **Section 4.5.3**

Such other temporary or permanent use of land, buildings, or structures as may be permitted *by right or expressly enumerated special exception in any other (commercial) district*, subject to the other applicable requirements of the Ordinance, pursuant to a special use permit by the Board of Zoning Appeals in accordance with Article VIII, Section 8.2.6 of this Ordinance.

*Any temporary or permanent use of land, buildings, structures not permitted by right or by special exception by the Board of Zoning Appeals within the District shall only be permitted pursuant to a conditional use permit issued by the Town Council.*

Mr. Derrickson motioned, seconded by Mrs. Richardson, to send to the public hearing at the October meeting.

Ayes - Rosenberger, Derrickson, Behr, Daisey, Richardson, Cherrix

Nays – Wolffe

The motion carried.

### **7. BY-LAWS REVIEW**

Chairman Rosenberger asked that the Commission members please take this back with them and see if they have any comments, deletions etc. It will be discussed further at the October meeting.

### **8. REVIEW OF SIGN ORDINANCE**

Because of the time a motion was made by Mrs. Wolffe to postpone until the October 5<sup>th</sup> meeting. There was no second motion.

## 9. ELECTION OF OFFICERS

Mrs. Wolffe motioned, seconded by Mr. Daisey to re-appoint Mr. Rosenberger as Chairman. The motion was unanimously approved.

Chairman Rosenberger motioned, seconded by Mr. Behr, to re-appoint Mrs. Richardson as Vice Chairman. The motion was unanimously approved.

## ADJOURNMENT

Mrs. Richardson motioned, seconded by Mr. Behr, to adjourn the meeting.

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Ray Rosenberger, Chairman



## TOWN OF CHINCOTEAGUE, INC.

**FAXED**  
October 4, 2006

Eastern Shore Post  
P. O. Box 318  
Tasley VA 23441

Dear Sirs:

The Planning Commission of the Town of Chincoteague requests the following NOTICE OF PUBLIC HEARING be published in the Eastern Shore Post on Wednesday October 11, 2006 and Wednesday October 18, 2006:

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### Public Notice

The Planning Commission of the Town of Chincoteague will hold a public hearing on October 24, 2006 at 7:00 p.m. in the Council Chambers located at 6150 Community Drive to hear public comments and views on the following zoning amendments:

**Sections; 3.2, 3.5.2 and 3.8.10**

Such other temporary or permanent use of land, buildings, or structures as may be permitted *by right or expressly enumerated special exception in any other (residential) district*, subject to the other applicable requirements of the Ordinance, pursuant to a special use permit by the Board of Zoning Appeals in accordance with Article VIII, Section 8.2.6 of this Ordinance.

**Section 3.11.5**

Such other temporary or permanent use of land, buildings, or structures as may be permitted *by right or expressly enumerated special exception in any other district*, subject to the other applicable requirements of the Ordinance, pursuant to a special use permit by the Board of Zoning Appeals in accordance with Article VIII, Section 8.2.6 of this Ordinance.

**Section 4.2.3 & 4.5.3**

Such other temporary or permanent use of land, buildings, or structures as may be permitted *by right or expressly enumerated special exception in any other (commercial) district*, subject to the other applicable requirements of the Ordinance, pursuant to a special use permit by the Board of Zoning Appeals in accordance with Article VIII, Section 8.2.6 of this Ordinance.

**Add new paragraph to sections 3.2, 3.5.2, 3.8.10, 3.11.5, 4.2.3 & 4.5.3**

*Any temporary or permanent use of land, buildings, structures not permitted by right or by special exception by the Board of Zoning Appeals within the District shall only be permitted pursuant to a conditional use permit issued by the Town Council.*





## TOWN OF CHINCOTEAGUE, INC.

**FAXED**  
October 9, 2006

The Eastern Shore News  
P. O. Box 288  
Tasley VA 23441

Dear Sirs:

The Town of Chincoteague requests the following NOTICE OF PUBLIC HEARING be published in the Eastern Shore News on Saturday October 14, 2006 and Wednesday October 18, 2006:

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### Public Notice

The Planning Commission of the Town of Chincoteague will hold a public hearing on October 24, 2006 at 7:00 p.m. in the Council Chambers located at 6150 Community Drive to hear public comments and views on the follow proposed zoning changes:

Amend Sections 3.6.5, 3.9.5, 4.3.5, and 4.6.5 – Corner Lots, item (2) wording as:

*The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures. If such parcel is waterfront property, the side yard setback abutting a street, road, right-of-way or easement shall be 25 feet for both main and accessory structures.*

2 October 2006

Mr. Kenneth Lewis, Building & Zoning Administrator  
Town of Chincoteague Inc.  
6150 Community Drive  
Chincoteague Island VA 23336

Re: Sunset Bay Condominiums Issues

Dear Kenny:

It has come to my attention that the Planning Commission has a number of questions concerning the subject referenced above. The two topics I am familiar with are the location of the fire hydrant and the parallel parking planned along Captain's Lane.

As Director of Public Works and the Town's Roads Engineer, I approved the following changes to the subdivision plans and discussed the same with you prior to my retirement:

- the reasoning for the single hydrant was (1) the two hydrants as located on the original plans would not have been accessible in the event of a fire (2) the building is sprinkled (3) the water supply would not be split between two hydrants (4) the next closest hydrant is at Main & Jester Streets,
- concern about the parallel parking on Captain's Lane was referred to VDOT for an opinion; Mr. Kenny Wright, who has subsequently retired, reported to me that there was no problem with parallel parking on that lane provided the first spaces were not less than 50' from the entrance at Main Street.

It should be and probably is noted that although that lane is considered to be private, it is to be constructed according to current VDOT urban highway standards.

Should you or the Planning Commission require further information, please do not hesitate to contact me.

Sincerely,



J. Wesley Jeffries  
757-336-6315

# MEMORANDUM

To: Planning Commission  
Committee

From: Kenny L. Lewis, Zoning Administrator

Date: September 21, 2006

Subject: Proposed Zoning Change, Pier Structures

The Mayor and Town Council has requested that the Planning Commission review the following proposed changes to section 2.96 of the Towns zoning ordinance.

## **6. Proposed Zoning Change, Pier Structures.**

Town Attorney Poulson advised that the Virginia Marine Resources Commission (VMRC) currently allows boat houses to cover a boat slip or boat lift (up to 700 square feet), and open-sided shelter roof structures and gazebos (up to 400 square feet) as a matter of right, unless otherwise prohibited by local ordinance.

Councilman Ross motioned, seconded by Councilwoman Conklin, to refer to the Planning Commission for their review and recommendations to Council, such recommendations only to be made after Notice and Public Hearing, a proposed zoning amendment that prohibits open-sided shelter roof structures, open-sided roof structure designed to shelter single boat slips and boat lifts, and that allows gazebo-type structures up to 400 square feet to be constructed and/or maintained on any dock, pier, or dock or pier platform in all districts.

Ayes – Ross

Nays – Conklin, Howard, Richardson, Speidel, Wolffe

Absent – None

The motion was defeated.

Councilman Wolffe motioned, seconded by Vice Mayor Speidel, that, giving consideration to the public necessity, convenience, general welfare, and good zoning practices, that the following proposed amendments to the Town of Chincoteague Zoning Ordinance be referred to the Town Planning Commission pursuant to Section 15.2-2285 for their recommendations, such recommendations to be made only after Notice and Public Hearing in accordance with Section 15.2-2204 and that Section 2.96 be amended by adding the following paragraphs to the definition of **Main Use**:

*A dock, including a boat lift(s), used in conjunction with the main use of a lot or structure, which is in compliance with all applicable County, State, and Federal*

*regulatory and statutory provisions and permitted by all required agencies, is a secondary, incidental or accessory use or structure.*

*A gazebo-type structure erected on a lot, the specific location of which is not subject to the jurisdiction of the Accomack County Wetlands Board, the Virginia Marine Resource Commission, and/or the United States Army Corps of Engineers, and used in conjunction with the main use of a lot or permitted building is a secondary, incidental or accessory use or structure.*

Further, the Planning Commission shall report its recommendations, with any explanatory materials, within ninety (90) days of its first meeting to consider the proposed amendments. The motion was unanimously approved.

**Proposed By-Laws  
Chincoteague Planning Commission  
September 28, 2004**

**ARTICLE 1 – OBJECTIVES**

- 1-1. This Commission, established in conformance with the resolution adopted by the Chincoteague Town Council \_\_\_\_\_, 2004, has adopted the following Articles in order to facilitate its powers and duties in accordance with the provisions of Title 15.2, Chapter 22, Article 2 of the Code of Virginia.
- 1-2. The official title of this Commission shall be “The Chincoteague Planning Commission”.

**ARTICLE 2 – MEMBERS**

- 2-1. Said commission shall consist of seven (7) members, one of whom shall be a member of the Town Council, and the remaining six (6) hereafter referred to as appointed members. Such members shall be residents of the locality and be a minimum of 50% owner of real property.
- 2-2. The term of the council person shall in all cases correspond to their tenure of office.

Of the other members first appointed, one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, one (1) shall be appointed for a term of three (3) years, and one (1) shall be appointed for a term of four (4) years, from and after the effective date of this resolution. Their successors shall be appointed for terms of four (4) years. Any vacancy in membership shall be filled by an appointment by the Council and such appointment, in the case of an appointed member, shall be for the unexpired term. Any appointed member may be removed by the Council for inefficiency, neglect of duty or malfeasance in office, provided that such removal may be made only after a public hearing at which said member is given an opportunity to appear and be heard on the charges against him.
- 2-3. The term of a Commission member shall expire on December 31 at which meeting his successor's term of office shall begin.

## ARTICLE 3 – OFFICERS AND THEIR SELECTION

- 3-1. The officers of the Planning Commission shall consist of a Chairperson, a Vice-Chairperson and a Secretary.
- 3-2. Nomination of officers shall be made from the floor at the regular September meeting each year. Election of officers shall follow immediately.
- 3-3. A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected. Such candidate shall take office immediately and serve for one (1) year or until his/her successor shall take office.
- 3-4. Vacancies in office shall be filled immediately by regular election procedures.

## ARTICLE 4 – DUTIES OF OFFICERS

- 4-1. The Chairperson shall be a member of the Commission and shall:
  - 4-1-2. Preside at all meetings.
  - 4-1-3. Rule on all procedural questions (subject to a reversal by a two-thirds (2/3) majority vote by the members present.)
  - 4-1-4. Be informed immediately of any official communication and report same at the next regular meeting.
  - 4-1-5. Carry out other duties as assigned by the Commission.
- 4-2. The Vice-Chairperson shall be a member of the Commission and shall:
  - 4-2-1. Act in the absence or inability of the Chairperson to act.
  - 4-2-2. Have power to function in the same capacity as the Chairperson in cases of the Chairperson's inability to act.
- 4-3. The Secretary shall:
  - 4-3-1. Keep a written record of all business transacted by the Commission.
  - 4-3-2. Notify all members of all meetings.
  - 4-3-3. Keep a file of all official records and reports of the Commission.
  - 4-3-4. Certify all maps, records, and reports of the Commission.

- 4-3-5. Give notice of all hearings and public meetings.
- 4-3-6. Attend to the correspondence of the Commission.
- 4-3-7. Prepare and be responsible for the publishing of advertisements relating to public hearings.

## ARTICLE 5 – DUTIES OF OFFICERS

- 5-1 At such times that the complexity of duties facing the Commission shall require the advice of standing committees, the following shall be appointed by the Chairperson to serve as needed:
  - 5-1-1. A Comprehensive Plan Committee. It shall coordinate the work of the other committees as it progresses and relate it to the overall program and keep the comprehensive plan developing in a realistic and reasonable manner.
  - 5-1-2. A Land Use Committee. It shall initially determine, and then continue to maintain an inventory of land uses. This committee shall also be responsible for the preparation of land use maps.
  - 5-1-3. A Subdivision Committee. This committee should draft subdivision regulations and any subsequent amendments. They shall examine all applications for major subdivisions, receive the reviews of the staff pertaining to them, and make recommendations to the Commission.
  - 5-1-4. A Zoning Committee. This committee should draft zoning ordinances and/or any subsequent amendments. They shall review all applications for rezoning or special use permits. When authorized by law, they shall hold public hearings, receive the views of the staff pertaining to the issue, and make recommendations to the Commission.
  - 5-1-5. A Street, Traffic and Parking Committee. They shall study the location, relocation, opening, closing or widening of streets, alleys, right-of-ways and limited access thoroughfares as well as control and expediting of traffic and provision for adequate parking. This committee shall initiate pertinent action and make recommendations to the Commission. Public and private hearings may also be conducted.
  - 5-1-6. A Capital Improvements Committee. They shall study the economics of capital improvements as it relates to the use of land to be made by the Town. This may be done independently or in conjunction with affected governmental agencies. Such study shall include need, priority of need, cost financing, joint use and participation, location, and relative status either within or without the views of the staff relative to the issues and make any recommendation deemed pertinent to the Commission are further duties of the committee.

5-2. Special committees may be appointed by the Chairperson for purposes and terms approved by the Commission.

5-3. The Chairperson shall be an ex officio member of every committee.

## ARTICLE 6 – MEETINGS

6-1. Regular meetings of the Commission shall be held on the fourth Tuesday of each month at 7:00 p.m. excluding the months of July and December. When a meeting falls on a legal holiday, the meeting shall be on the day following unless otherwise designated by the Commission. Such meetings must be held in a public building.

6-2. Special meetings shall be called at the request of the Chairperson or at the request of a quorum of the membership.

6-3. All regular meetings, hearings, records, and accounts shall be open to the public.

6-4. A majority of the membership of the Commission shall constitute a quorum. The number of votes necessary to transact business shall be a majority of the entire membership. Voting may be by roll call, in which case a record shall be kept as a part of the minutes.

## ARTICLE 7 – ORDER OF BUSINESS

7-1. The order of business for a regular meeting shall be:

7-1-1. Call to order by Chairperson.

7-1-2. Roll call.

7-1-3. Determination of a quorum.

7-1-4. Pledge of allegiance.

7-1-5. Reading of the minutes.

7-1-6. Review of agenda.

7-1-7. Old business.

7-1-8. New business.

7-1-9. Adjournment.



7-2. Parliamentary procedure in Commission meetings shall be governed by Roberts's Rules of Order, Revised.

7-3. The Planning Commission shall keep a set of minutes of all meetings, and these minutes shall become a public record.

The Chairperson shall sign all minutes, and at the end of the year shall certify that the minutes of the preceding year are a true and correct copy.

## ARTICLE 8 – HEARINGS

8-1. In addition to those required by law, the Commission, at its discretion, may hold public hearings when it decides that a hearing will be in the public interest.

8-2. Notice of special hearings shall be published once a week for two successive weeks in a newspaper of general circulation in the area not less than five (5), nor more than twenty-one (21) days before the time of public hearing.

8-3. The case before the Commission shall be summarized by the Chairperson or other member delegated by the Chairperson. Interested parties shall have the privilege of the floor. Records or statements shall be recorded or sworn to as evidence for any court of law, only after notice is given to the interested parties.

8-4. A record shall be kept of those speaking before the hearing.

## ARTICLE 9 – CORRESPONDENCE

9-1. It shall be the duty of the Secretary to draft and sign all correspondence necessary for the execution of the duties and functions of the Planning Commission.

9-2. All official papers and plans involving the authority of the Commission shall bear the signature of the Chairperson and Vice-Chairperson.

## ARTICLE 10 – AMENDMENTS

10-1. These rules may be changed by a recorded two-thirds (2/3) vote of the entire membership of the Commission subject to approval from the Town Council after thirty (30) days notice.